

## **REMARKS**

### **Overview of the Office Action**

Claims 1 and 2 have been rejected under 35 U.S.C. §103(a) as unpatentable over U.S. published application no. 2002/0078441 to Drake et al. ("Drake") in view of U.S. Patent No. 6,463,271 to Schroeder et al. ("Schroeder"). Claims 3 and 4 have been rejected under 35 U.S.C. §103(a) as unpatentable over Drake in view of U.S. Patent No. 6,173,158 to Hansen et al. ("Hansen").

### **Claim Status**

Claims 1-4 have been amended.

Claims 1-4 remain pending.

### **Summary of subject matter disclosed in the specification**

The following descriptive details are based on the specification. They are provided only for the convenience of the Examiner as part of the discussion presented herein, and are not intended to argue limitations, which are unclaimed.

Disclosed is an apparatus for monitoring an audience member tuned to a broadcast program. The apparatus includes a portable audience monitoring unit adapted to be worn by the audience member. The monitoring unit includes means for detecting a code signal that forms the broadcast signal in combination with a programming signal used to perform the program. The code signal corresponds to the broadcast program to which the audience member is tuned. The monitoring unit further includes means for storing the detected code signal. The apparatus further includes means for outputting the detected code signal stored in the audience monitoring

unit, and communication means for transmitting the outputted detected code signal to a central processing station, wherein the communication means communicates with Cellular Digital Packet Data (CDPD).

#### **Descriptive summary of Drake**

Drake discloses a method, system and computer-readable medium for collecting usage information in real-time for a computing device receiving digital content for presentation. Content servers 105 provide various types of content to multiple Set-Top Boxes (“STBs”) 120. Each STB is connected to one or more corresponding TVs. See par. [0022]. In addition to content being sent from the content servers to the STBs, various types of information can be sent from the STBs to the Content Servers. Such information is content control instructions which typically originate from one or more of the viewers watching the TV to which the STB is connected. See par. [0024].

#### **Descriptive summary of Schroeder**

Schroeder discloses a wireless voice and data communication system with a portable radio telephone handset that has a CDPD mode.

#### **Descriptive summary of Hansen**

Hansen discloses a telecommunications network having a local service node provided with a two-way communicator 300 that includes an RF transceiver 310. The RF transceiver 310 can be a two way pager such as a REFLEX pager.

**Claims 1 and 2 are allowable over Drake in view of Schroeder under 35 U.S.C. §103(a)**

Salient features of the present claimed invention include the following:

1. The apparatus includes a portable audience monitoring unit adapted to be worn by the audience member.
2. The monitoring unit includes means for detecting a code signal that forms the broadcast signal in combination with a programming signal used to perform the program.

As regards above-listed feature no. 1, the Examiner contends that Drake discloses “a portable audience monitoring unit adapted to be worn by the audience member (Sections 0025, 0034, 0045 ...)”. However, nowhere in the sections pointed to by the Examiner is there a disclosure of a portable audience monitoring unit adapted to be worn by the audience member. In fact, such a feature is not disclosed ANYWHERE in this reference.

Despite the lack of an explicit disclosure for this feature, the Examiner contends that the claimed “monitoring unit” reads on the content server of Drake, and that “the content server is a computing device, which can be a variety of computing devices such as PDAs, wireless phones, and pagers, al of which can be worn by a user.” This array of devices is taken by the Examiner from section 0045 of Drake. However, it is noted that section 0045 talks relates to STBs, not content servers! Therefore, the Examiner’s interpretation appears not to be well founded.

As regards above-listed feature no. 2, the Examiner contends that Drake discloses “means for detecting a code signal that forms the broadcast signal in combination with a programming signal used to perform the program, wherein the code signal corresponds to the broadcast pogram to which the audience member is tuned (Section 0025, the audience viewing events, which comprise signals, are the code signals).” Section 0025 states that “the Content Servers track events indicating what content each STB is receiving (and thus what content is being viewed by the viewers of the

display device for that STB), such as based on content control instructions received from the STBs. The Content Servers in the illustrated embodiment then store such audience viewing events in an Audience Viewing Event Database 110.” This section states explicitly that the audience viewing events are “based on content control instructions received from the STBs.” More details on the content control instructions can be found in section 0024 of Drake. These “code signals,” as the Examiner refers to them, come from the STBs and are generated by the viewers. In contrast, the claimed code signals of the present invention are part of the broadcast signal in combination with a programming signal used to perform the program. Thus, contrary to the Examiner’s contention, this claimed feature is not shown by Drake.

Schroeder fails to bridge the gap between claim 1 and Drake. There is nothing in Schroeder which even hints at the above-listed features 1 and 2.

In view of the foregoing, it is respectfully submitted that Drake and Schroeder, whether taken alone or in combination, do not teach or suggest the subject matter recited in independent claim 1. Accordingly, claim 1 is patentable thereover under 35 U.S.C. §103(a).

Independent claim 1 is patentable over Drake and Schroeder for reasons presented above with respect to claim 1.

**Claims 3 and 4 are allowable over Drake in view of Hansen under 35 U.S.C. §103(a)**

Claim 3 includes the features discussed above with respect to claim 1 for distinguishing the invention over Drake. Hansen fails to bridge the gap between claim 3 and Drake. There is nothing in Hansen which even hints at the above-listed features 1 and 2.

In view of the foregoing, it is respectfully submitted that Drake and Hansen, whether taken alone or in combination, do not teach or suggest the subject matter recited in independent claim. Accordingly, claim 3 is patentable thereover under 35 U.S.C. §103(a).

Independent claim 4 is patentable over Drake and Schroeder for reasons presented above with respect to claim 3.

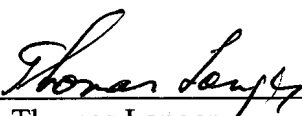
### **Conclusion**

In view of the foregoing, reconsideration and withdrawal of all rejections, and allowance of all pending claims is respectfully solicited.

Should the Examiner have any comments, questions, suggestions, or objections, the Examiner is respectfully requested to telephone the undersigned in order to facilitate reaching a resolution of any outstanding issues.

Respectfully submitted,

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